

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 195 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

JETHABHAI NATHURBHAI DARJI

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Appearance:

MR HS MUNSHAW for Petitioner

MR HK RATHOD for Respondent No. 1

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 09/02/98

ORAL JUDGEMENT

Rule. Mr. HK Rathod, learned advocate for the respondent waives service of rule on behalf of respondent. At the request of the learned advocate, this petition is finally heard today.

The respondent-conductor at the relevant time serving as a conductor with the petitioner-corporation. On 11.4.1991 the respondent was charge-sheeted. The

charges were as under:

- a) The respondent even though has recovered the amount of fare Rs 20/ has not issued tickets.
- b) The respondent has endorsed below the statements of the passengers that the statements are not acceptable to him.
- c) There was deficit of rs 13.40ps and numbers of the tickets were not entered in the way-bill.

That in the departmental inquiry, these charges were proved, hence, the respondent was dismissed from service. However, at the instance of the respondent, a reference was referred to the Labour Court, Ahmedabad being Reference No.(LCA) 2438/95. The labour court after considering the evidence on record has recorded a finding that corporation has not proved the theft of Rs 20/ and the charge of road booking by the respondent was only proved. In view of this finding, the Labour Court was of the view that the extreme penalty of dismissal from service is not proper and, therefore, the respondent was reinstated with 60% of back-wages and stoppage of 2 increments without future effect.

Having heard the learned advocates for the parties today, I am of the view that the finding recorded by the Labour Court are essentially a question of facts on the basis of the evidence on record, it is not possible for me to re-appreciate the evidence and to take different view in the matter, therefore, it is not possible to accept the submission of learned advocate for the corporation. However, Mr Munshaw for the petitioner has submitted that reinstatement with 60% back wages is also not called for considering the fact that one more charge of road booking is proved against the respondent.

Mr HK Rathod learned advocate for the respondent has fairly stated that as far as penalty is concerned, the same can be dealt with by the court. He suggested that instead of stoppage of 2 increments without future effect, the same may be converted into stoppage of 2 increments with future effect can be passed. Considering the suggestions advanced before me, I am of the view that instead of reinstatement with 60% back wages and stoppage of two increments without future effect, if it is ordered that reinstatement with 50% of back wages with continuity of service and stoppage of two increments with future effect is passed, the same shall be met with the ends of justice.

In the result, the petition is partly allowed.  
The order passed by the Labour Court, Ahmedabad in  
Reference No. (LCA) 2438/95 is modified as under:

The petitioner is directed to instate the  
respondent with continuity of service with 50% of back  
wages and stoppage of two increments with future effect.  
The petitioner to comply with this direction within six  
weeks from today. Rule is made absolute to the aforesaid  
extent.

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